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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,712	05/04/2001	Nobutaka Wakamiya	19036/37157	9190

7590

01/29/2003

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EXAMINER

PARAS JR, PETER

ART UNIT	PAPER NUMBER
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1632

13

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 09/763,712	Applicant(s) WAKAMIYA, NOBUTAKA	
	Examiner Peter Paras, Jr.	Art Unit 1632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-96 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 38-96 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 38-96 are pending. The previous Restriction requirement, mailed on 10/02/02, is vacated as the Examiner inadvertently did not apply lack of unity practice

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 38-52 and 71-80, drawn to an isolated polynucleotide as set forth in SEQ ID NO: 1, which encodes the polypeptide set forth in SEQ ID NO: 2, a vector comprising the same polynucleotide, and a host cell comprising the same vector.

Group II, claims 58-70, drawn to an isolated collectin polypeptide.

Group III, claim 81, drawn to a probe for screening for a collectin homolog.

Group IV, claims 85-86, drawn to a method for obtaining a collectin homolog comprising screening proteins that bind an antibody.

Group V, claims 87-88, drawn to a method of quantitative determination of a collectin comprising contacting a sample with an antibody.

Group VI, claim 89, drawn to an ELISA kit comprising an antibody against collectin.

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Group VII, claims 90-92, drawn to a method for isolating a collectin from a sample with an antibody against collectin by affinity chromatography.

Group VIII, claim 93, drawn to a method for making a collectin polypeptide *in vitro*.

Group IX, claim 94, drawn to a transgenic non-human animal comprising a polynucleotide encoding a collectin peptide.

Group X, claims 95-96, drawn to a transgenic non-human animal comprising a disrupted collectin gene.

Claims 82-84 are generic to Groups IV-VII and will be examined with respect to the elected group if one of Groups IV-VII is elected.

The MPEP 37 C.F.R. 1.475 and 1.476 state that "if multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT article 17(3) (a); and "if an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present".

Inventions I-X are distinct each from the other. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP §

808.01). In the instant case the different inventions have different modes of operation, different functions and different effects. The different inventions of Groups I-X embrace products and methods. The products can be used in materially different methods than the claimed methods and the methods can be practiced with materially different reagents from the products as claimed. For example, the transgenic non-human animal of Group X can be used as a model of disease for screening candidate agents that may treat a disease. While group VIII is directed to producing a polypeptide *in vitro*. The polypeptide of Group II can be used as an antigen to produce antibodies in an animal while the method of Group V can be used to quantitate the amount of collectin in a sample. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter and separate search requirement, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner(s) should be directed to Peter Paras, Jr., whose telephone number is 703-308-8340. The examiner can normally be reached Monday-Friday from 8:30 to 4:30 (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at 703-305-4051. Papers related to this application may be submitted by facsimile transmission. Papers should be faxed via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center numbers are (703) 308-4242 and (703) 305-3014.

Inquiries of a general nature or relating to the status of the application should be directed to Dianiece Jacobs whose telephone number is (703) 305-3388.

Peter Paras, Jr.

**PETER PARAS
PATENT EXAMINER**

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